



Individual:

Eric Siegel

Date Employment Commenced ("Effective Date"): Jan. 1, 2000

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ORIGINALLY FILED

KARGO, INC.

Nondisclosure/Noncompete/Inventions Agreement

AGREEMENT dated as of the Effective Date between Kargo, Inc. (the "Company"), a Delaware corporation, and Individual.

The parties agree as follows.

I. Definitions. For all purposes of this Agreement, the following terms shall have the meanings ascribed to them below:

"Affiliate" shall mean any corporation or other entity owning, directly or indirectly, 50% or more of the outstanding capital stock (determined by aggregate voting rights) of the Company, or in which the Company or any such corporation or other entity owns, directly or indirectly, 50% of the outstanding capital stock (determined by aggregate voting rights) or other voting interests.

"Confidential Information" shall mean any and all information of the Company that is not generally known by others with whom it competes or does business, or with whom it plans to compete or do business and any and all information, which, if disclosed by the Company would assist in competition against it. Confidential Information includes without limitation such information relating to (i) all proprietary information of the Company, including, without limitation, technical data, trade secrets, know-how, software, developments, inventions, processes, formulas, and hardware configuration information; (ii) the development, research, testing, marketing and financial activities of the Company; (iii) the manner in which the Company operates; (iv) the costs, sources of supply, financial performance and strategic plans of the Company; (v) the identity and special needs of the customers or suppliers of the Company and (vi) the people and organizations with whom the Company and its subsidiaries have business relationships and those relationships. Confidential Information also includes comparable information that the Company has received belonging to others or which was received by the Company with any understanding that it would not be disclosed.

Confidential Information shall not include any information that: (i) was or becomes generally known in the trade or business of the Company or Individual through no act of Individual; or (ii) has come into the possession of Individual from a third party who is under no obligation to the Company to maintain the confidentiality of such information.

"Intellectual Property" means inventions, discoveries, developments, methods, processes, compositions, works, concepts and ideas (whether or not patentable or

copyrightable or constituting trade secrets) conceived, made, created, developed or reduced to practice by Individual (whether alone or with others, whether or not during normal business hours or on or off Company premises) during Individual's employment that relate to either the Products or any prospective activity of the Company or any of its Affiliates.

"Person" shall mean any natural person or any corporation, association, partnership, joint venture, company, business trust, trust, organization, business or government or any governmental agency or political subdivision of any government.

"Products" mean all products planned, researched, developed, tested, manufactured, sold, licensed, leased or otherwise distributed or put into use by the Company or any of its Affiliates, together with all services provided or planned by the Company or any of its Affiliates, during Individual's employment.

2. Confidential Information.

2.1. Non-Disclosure. Individual acknowledges that the Company continually develops Confidential Information, that Individual may develop Confidential Information for the Company and that Individual may learn of Confidential Information during the term of this Agreement. Individual will comply with the policies and procedures of the Company for protecting Confidential Information and shall not disclose to any Person (except as required by applicable law or for the proper performance of Individual's duties and responsibilities to the Company), or use for Individual's own benefit or gain, any Confidential Information obtained by Individual incident to Individual's employment or other association with the Company. Individual understands that this restriction shall continue to apply after this Agreement terminates, regardless of the reason for such termination.

2.2. Documents. All documents, records, tapes and other media of every kind and description relating to the business, present or otherwise, of the Company and any copies, in whole or in part, thereof ("Documents"), whether or not prepared by Individual, shall be the sole and exclusive property of the Company. Individual shall safeguard all Documents and shall surrender to the Company upon termination of this Agreement, or at such earlier time or times as the President or his or her designee may specify, all Documents then in Individual's possession or control.

3. Assignment of Rights to Intellectual Property. Individual shall promptly and fully disclose all Intellectual Property to the Company. Individual hereby assigns and agrees to assign to the Company (or as otherwise directed by the Company) the Individual's full right, title and interest in and to all Intellectual Property. Individual agrees to execute any and all applications for domestic and foreign patents, copyrights or other proprietary rights and to do such other acts (including without limitation the execution and delivery of instruments of further assurance or confirmation) requested by the Company to assign the Intellectual Property to the Company and to permit the Company to enforce any patents, copyrights or other proprietary rights to the

Intellectual Property. Individual will not charge the Company for time spent in complying with these obligations. All copyrightable works that Individual creates shall be considered "work made for hire." Individual's obligation to assign his rights to Intellectual Property under this Section 3 shall not apply to any invention (i) that Individual develops on his own time, without using the Company's equipment, supplies, facilities or trade secret information, unless such invention relates at the time of conception or reduction to practice of the invention to the Company's business or to the actual or demonstrably anticipated research or development of the Company or results from any work performed by Individual for the Company or (ii) inventions expressly identified in the attached Schedule which were developed prior to the Individual's employment by the Company, provided however that inventions to be developed by the Individual during the term of the Individual's agreement may be subsequently added to the Schedule upon mutual agreement of the Individual and the Company that such inventions are outside the scope of the Agreement.

4. Restricted Activities.

4.1 Individual agrees that some restrictions on Individual's activities during and after the term of Individual's employment with the Company are necessary to protect the goodwill, Confidential Information and other legitimate interests of the Company. During the term of Individual's employment with the Company and for a period of one year after Individual's employment terminates, Individual shall not, directly or indirectly, whether as owner, partner, investor, consultant, agent, Individual, co-venturer or otherwise, compete with the Company. Specifically, but without limiting the foregoing, Individual agrees not to engage in any manner in any activity that is directly or indirectly competitive or potentially competitive with any current, planned or reasonably foreseeable business, product or service of the Company. The foregoing restriction shall not prevent Individual from owning 1% or less of the equity securities of any publicly traded company.

4.2 During the term of Individual's employment with the Company and for a period of one year after Individual's employment terminates, neither Individual nor any business controlled by, controlling, or under common control or ownership with Individual, shall solicit or hire any individual who has at the time of or at any time since the Effective Date been an Individual of the Company, assist in such hiring by any other Person, encourage any such Individual to terminate his or her relationship with the Company (unless such individual has voluntarily terminated his or her employment, or the Company terminated such individual's employment without cause, greater than one year prior to the first instance of Individual's conduct described in this Section 4.2), or solicit or encourage any customer or vendor of the Company to terminate its relationship with the Company or to conduct with any Person any business or activity which such customer conducts or could conduct with the Company.

5. Enforcement of Covenants. Individual acknowledges that Individual has carefully read and considered all the terms and conditions of this Agreement, including the restraints imposed upon him pursuant to Section 4 hereof. Individual agrees that said

restraints are necessary for the reasonable and proper protection of the Company and its subsidiaries and said restraints are reasonable in respect to subject matter, length of time and geographic area. Individual further acknowledges that, were Individual to breach any of the covenants contained in Sections 2, 3 and 4 hereof, the damage to the Company would be irreparable and the Company will not have an adequate remedy at law. The Company shall, therefore, be entitled to obtain specific performance of Individual's obligations under Sections 2, 3 and 4 and to obtain immediate injunctive relief.

6. Employment At Will. Individual acknowledges that the Company has the right, if it determines in its sole discretion that doing so is in the best interest of the Company, to terminate Individual's employment with the Company at any time with or without cause. Individual agrees that he and the Company have not entered into any agreement and the Company has not made any representation that conflicts with the preceding sentence. Individual agrees that ownership of equity in the Company does not entitle Individual to employment with the Company.

7. Assignment. Neither the Company nor Individual may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that the Company may assign its rights and obligations under this Agreement without the consent of Individual in the event that the Company shall hereafter effect a reorganization, consolidate with, or merge into, any other Person or transfer all or substantially all of its properties or assets to any other Person. This Agreement shall inure to the benefit of and be binding upon the Company and Individual, their respective successors, executors, administrators, heirs and permitted assigns.

8. Severability. If any term or provision of this Agreement shall become or be declared illegal, invalid or unenforceable, such term or provision shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement, provided that if such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend and modify the terms and provisions of this Agreement to give effect to the original intent of the parties.

9. Notices. Any and all notices, requests, demands and other communications provided for by this Agreement shall be in writing and shall be effective when delivered in person or deposited in the United States mail, postage prepaid, registered or certified, and addressed to Individual at Individual's last known address on the books of the Company or, in the case of the Company, at its principal place of business, attention of the President, or to such other address as either party may specify by notice to the other.

10. **Miscellaneous.** This Agreement and the Employment Agreement dated as of the date hereof between the parties together constitute the entire agreement between the parties and supersede all prior communications, agreements and understandings, written or oral, with respect to the terms and conditions of Individual's employment. This Agreement may be amended or modified only by a written instrument signed by Individual and by an expressly authorized representative of the Company. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. This is a Delaware contract and shall be construed and enforced under and be governed in all respects by the laws of the State of Delaware, without regard to the conflict of laws principles thereof.

IN WITNESS WHEREOF, this Agreement has been executed as a sealed instrument by the Company, by its duly authorized representative, and by Individual, as of the Effective Date

[Individual]

KARGO, INC.

Eric Siegel

By:

Name: Eric V. Siegel
Title: Chief Technical Officer

H B K
Harry B. Kargman
CEO